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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/774,235	02/05/2004	Richard D. Stackenwalt	0213	6239

7590 01/29/2007
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EXAMINER
PLUMMER, ELIZABETH A

ART UNIT PAPER NUMBER
3635

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/29/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/774,235

Applicant(s)

STACKENWALT ET AL.

Examiner

Elizabeth A. Plummer

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 February 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

This is a first Office action on the merits for application serial number 10/774,235 filed 02/05/2004. Claims 1-20 are pending.

Oath/Declaration

1. The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because:

The specification to which the oath or declaration is directed has not been adequately identified. See MPEP § 602.

Drawings

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: 16. Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

3. Claim 10 is objected to because of the following informalities: Claim 10 recites the limitation "the frame elements" in line 2. There is insufficient antecedent basis for this limitation in the claim. For purposes of examination it is assumed that "the frame elements" is intended to refer to the first and second runner. Appropriate correction is required.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1-3 and 5-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Wendt et al. (US Patent 6,047,512).

a. Regarding claim 1, Wendt et al. discloses a decorative structure comprising a first runner (30), second runner (30) spaced substantially parallel to the first runner (Fig. 1, 1A, 6), a spreader bar (36, 39) spaced between and operatively connected to both the first and second runner and a flexible panel (200) operatively connected to both the first and second runner (Fig. 1, 1A, 6).

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- b. Regarding claim 2, the runners (30) have channels (41, 35) positioned within the runners (Fig. 2A).
 - c. Regarding claim 3, an attachment clip (34) engages the channel (35) positioned within the runners (30) (Fig. 2A).
 - d. Regarding claim 5, a modular spacing bar (66) engages the channel positioned within the first and second runners whereby at least two adjacent decorative structures (the flat decorative structure and the concave decorative structure) can be connected (Fig. 5; column 7, lines 6-15).
 - e. Regarding claim 6, the decorative structure is suspended from the ceiling (Fig. 1-10).
 - f. Regarding claim 7, cables (25) are attached to the ceiling and the spreader bar (column 6, lines 1-5).
 - g. Regarding claim 8, the first and second runners can include a curved portion (Fig. 6).
 - h. Regarding claim 9, the curved portion of the first runner is substantially similar to the curved portion of the second runner (Fig. 6).
 - i. Regarding claim 10, the decorative structure further includes a slotted member (40) resting within a groove (40) in the runners (30) whereby the spreader bar is attached to the runner (30) by the slotted member (40) (Fig. 2A).
6. Claims 1-4 are rejected under 35 U.S.C. 102(b) as being anticipated by Ahren (US Patent 4,744,188).

- a. Regarding claim 1, Ahren discloses a decorative structure comprising a first runner (14b), a second runner (14a) spaced substantially parallel to the first runner, a spreader bar (14b) spaced between and operatively connected to both the first and second runner, and a flexible panel (17, 17a) operatively connected to both the first and second runner.
 - b. Regarding claim 2, a channel (22) is positioned within the first and second runners (Fig. 3,5,6).
 - c. Regarding claim 3, an attachment clip (17a) engages the channel (22) positioned within the first and second runners (Fig. 3,5).
 - d. Regarding claim 4, the attachment clip engages and attaches the flexible panel (17a, 28) to the runners (Fig. 3,5; column 3, lines 6-10).
7. Claims 11-12 and 14-19 are rejected under 35 U.S.C. 102(e) as being anticipated by Wendt (US Patent 6,298,623).
- a. Regarding claim 11, Wendt discloses a ceiling system (40) comprising a plurality of decorative structures suspended from a ceiling (abstract; Fig. 23) wherein the decorative structures comprise a frame (42), a panel and a bracket or clip attaching the panel to the frame (Fig. 20; column 3, lines 16-17), and a modular spacer bar (82) attached to and positioned between at least two decorative structures (Fig. 28).
 - b. Regarding claim 12, the frame comprises at least two parallel runners (42; Fig. 1,2).

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- c. Regarding claim 14, a spreader bar (46) is spaced between operatively connected to both the parallel runners (Fig. 2).
- d. Regarding claim 15, a slotted member (56) is operatively connected to each of the parallel runners for connecting the spreader bar (4) to the parallel runners (Fig. 2).
- e. Regarding claim 16, the decorative structure is suspended on wires connected to the ceiling and the spreader bar (46) (Fig. 2).
- f. Regarding claim 17, the decorative structure is suspended by posts connected to the ceiling and the spreader bar (abstract; column 2, line 23).
- g. Regarding claim 18, the parallel runners include a curved portion (Fig. 1).
- h. Regarding claim 19, the curved portions of the runners are substantially similar (Fig. 1).

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 11-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wendt et al. (US Patent 6,047,512) in view of Wendt (US Patent 5,937,605). Regarding claims 11-13, Wendt et al. ('512) discloses a plurality of decorative structures suspend from a ceiling (Fig. 3) wherein the decorative structures comprise a frame (30, 36, 39)

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that comprises at least two parallel runners (30), a panel attached to the frame (Fig. 3), and a modular spacer bar (66) attached to and positioned between at least two adjacent decorative structures (the flat decorative structure and the concave decorative structure) (Fig. 3,5; column 7, lines 6-15). Wendt et al. does not disclose that the means for attaching the panel to the frame is a clip that is seated within a channel. However, it is notoriously well known in the art that a clip that is seated in a channel can be used to attach panels to a suspension grid. For example, Wendt ('605) teaches a clip to be used in the construction of suspension ceiling grids or island ceilings. The clip is attached to the end web, or channel portion, of a T-shaped beam. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Wendt et al. ('512) to use a clip seated in a channel (31) to attach the panels to the frame rather than a traditional penetrating fastener, such as taught by Wendt ('605), in order to avoid damaging the panels.

10. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wendt (US Patent 6,298,623). Regarding claim 20, Wendt discloses a panel (Fig. 20-23) but does not specify from what material the panel comprises. However, it would have been a matter of obvious design choice to form panel out of metal, wood, plastic or fiber board, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125 USPQ 416.

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elizabeth A. Plummer whose telephone number is (571) 272-2246. The examiner can normally be reached on Monday through Friday, 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl Friedman can be reached on (571) 272-6842. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

EAP


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